



Washington State
Department of Health
Board of Osteopathic Medicine and Surgery
Meeting Minutes
November 4, 2005

The meeting of the Washington State Board of Osteopathic Medicine and Surgery was called to order by Larry Smith, DO, Vice-Chair, at 9:15 a.m. The meeting was held at: St. Francis Hospital, 34515 9th Avenue South, Board Room, Federal Way, Washington 98003.

Board Members Present: Larry Smith, DO, Vice-Chair
Thomas Shelton, DO
William Gant, Public Member
Thomas Bell, DO

Staff Present: Blake Maresh, Executive Director
Arlene Robertson, Program Manager
Melissa Burke-Cain, Assistant Attorney General
Maryella Jansen, Deputy Executive Director
Lisa Noonan, Program Manager
Judy Young, Staff Attorney
Karen Jensen, Staff Attorney
Karen Maasjo, Administrative Staff

Public Present: Drew Garcia, Physician Assistant

Open Session

1. Call to Order

1.1 Approval of Agenda

The agenda was approved with the addition of Lisa Noonan, Program Manager, to address establishing hearing dates for 2006.

1.2 Approval of Minutes

1.2.1 September 16, 2005 meeting minutes

The September 16, 2005 meeting minutes were approved as submitted.

2. (Open Session) Settlement Presentations
2.1 Theresa L. Froelich, DO - Docket #04-10-A-10330P
Presenter - Judy Young, Staff Attorney
Deliberations are held in Executive Session.
This matter was tabled due to a lack of a quorum to consider the proposed disposition.
3. 10:00 a.m. - Rules Hearing - WSR 05-17-046
Repeal rules relating to joint practice arrangements
WAC 246-853-221, 222, 224, 225, 226, 227

Dr. Smith conducted the rules hearing. No one was in attendance to present testimony regarding the repeal. Ms. Robertson reported that no written comments had been received. The Board approved repeal of the rules as identified in WSR 05-17-046.

4. Disciplinary Issues
 - 4.1 Update policies related to complaints
 - 4.1.1 OP95-01 Review of Complaints by the Board
 - 4.1.2 OP95-02 Closure of Investigated Cases
 - 4.1.3 OP97-26 Closure of Below Threshold Reports/No jurisdiction reports

ISSUE

The policies and procedures relative to complaint processing were no longer consistent with recommendations from the Department and Office of Attorney General to comply with the decision made by the Court of Appeals Order, Docket No. 54291-5-I.

ACTION

The Board's procedures relative to complaint processing and approval of cases to be investigated were modified to be in compliance with the Court of Appeals Order, Docket No. 54291-5-I. The suggested modifications were approved by the Board.

5. Rules
 - 5.1 Review Information for Possible Rules
 - 5.1.1 Retired Active Status
 - 5.1.1.1 WAC 246-12-120, 130, 140 Retired Active Statute Implementation Rules
 - 5.1.1.2 WAC 246-824-073 - Dispensing Optician
 - 5.1.1.3 WAC 246-933-990 - Veterinarian
 - 5.1.1.4 WAC 246-924-990 - Psychology

5.1.1.5 WAC 246-919-480 - Medical

ISSUE

Additional information requested by the Board on the type of practice permitted by the retired active status, including rules that had been adopted by other professions, was shared with the Board.

ACTION

The Board approved filing the CR101 and adopting the standards as specified in WAC 246-12-120, 130, 140. It was also noted there was currently no fee for this type of license. It was recommended that a nominal fee be assessed, such as 25% of the active license fee. The Board's suggestion will be forwarded to the Secretary for consideration in determining a fee.

5.1.2 Sexual Misconduct

5.1.2.1 Sexual Misconduct Policy - Adopted
11/3/95

5.1.2.2 Medical Quality Assurance Commission
proposed rules for hearing on November 18, 2005

5.1.2.3 WAC 246-808-590 Sexual Misconduct -
Chiropractic

5.1.2.4 WAC 246-840-740 Sexual misconduct
prohibited - Nursing Commission

5.1.2.5 WAC 246-851-550 Sexual Misconduct -
Optometrist

5.1.2.6 WAC 246-924-358 Sexual Misconduct -
Psychologist

ISSUE

Sexual misconduct policies have been in place for over ten years. However, they do not have the affect of law. Since there are no rules which clarify the types of behaviors considered to be abuse or sexual misconduct such violations are often charged under RCW 18.130.180 (1) as a "moral turpitude" violation instead of under (24).

Due to the increasing number of cases involving sexual contact and/or other boundary violations, the Secretary has determined all professions under her authority will pursue rulemaking to define sexual misconduct. The Secretary has requested that Boards and Commissions also consider adopting sexual misconduct rules. Rules will outline the expectations to the practitioner. The public will also be able to identify the type of

behavior that is inappropriate in a practitioner-patient relationship.

ACTION

The Board considered the Secretary's request. The current sexual misconduct policy and rules adopted by other professions were also reviewed.

The Board noted that abuse, other than sexual misconduct, of patients could occur. The Board indicated that financial exploitation of a patient, particularly involving a vulnerable adult, i.e., illegal or improper business dealings, transactions involving property, income, or resources, and trust account management could constitute an abuse of power on the part of the health care provider.

The Board approved moving forward with the CR101 filing. The Board requested that the final rule adopted by the Medical Commission be brought back for review.

6. Practice Issues

6.1 Discuss patient safety initiatives being pursued by the Department of Health. (Standing Agenda Item)

ISSUE

The October 21, 2005 patient safety updates were shared with the Board.

ACTION

No action was required.

7. Program Manager Reports

7.1 Budget Report

ISSUE

Ms. Robertson provided the September 2005 interim operating report. It was noted that the report was incomplete in several areas, including the revenue balance that was carried over from the previous biennium. Supplemental information was provided to show the revenue and current balances.

ACTION

No action was necessary at this time.

7.2 Washington Physicians Health Program

7.2.1 2005 BOMS Semiannual Report (January -June)

7.2.2 September 2005 Statistical Information

ISSUE

Both the Semiannual report and most recent statistical information relative to osteopathic participants in the WPHP program were reviewed. The semiannual report provided an indepth report on the various activities conducted in the first half of 2005. It was noted that participants in the program continue to increase each year.

ACTION

The Board requested that Dr. Hankes be invited to a meeting in 2006 to give a presentation and update the members on the program.

7.3 Call for nominations for 2006 annual meeting - Federation of State Medical Boards

ISSUE

The request for nominations was reviewed.

ACTION

None of the members present were interested in running for any of the positions. Attendance at the meeting was discussed. Dr. Shelton and Bill Gant both indicated they were interested in attending the meeting. Staff will prepare the paperwork for approval.

7.4 Establishing hearing dates

ISSUE

Ms. Noonan addressed the issue of pre-establishing several hearing dates throughout the year so that the Adjudicative Services Unit could assign a date upon receipt of the respondent's answer.

ACTION

The Board approved setting up two day hearing dates alternating with meeting months. Ms. Noonan will set up the dates and advise the board members so they can tentatively schedule those dates on their calendars.

8. Executive Director Reports

Mr. Maresh addressed the Secretary's patient safety memo. It was noted that Secretary Selecky is directing that cases involving sexual misconduct, death, or serious harm be given priority throughout the investigative and disciplinary process.

Mr. Maresh reported on staff attendance at the Central/Western Regional Administrators in Medicine meeting recently held in Portland. This meeting focused on patient safety mechanisms and emphasized some of the programs that evaluate and direct reeducation of practitioners that have been identified to have skills or knowledge deficiencies. These issues are of interest to boards across the country.

Closed Session

9. Investigative Authorizations

The Board reviewed eleven (11) complaints.

10. Disciplinary Case Reviews - Reviewing Board Member Reports

<u>CASE NUMBER</u>	<u>DISPOSITION</u>
2004-03-0006OP	Issue Statement of Charges/Forward to Legal for review.
2004-12-0004OP	Issue Statement of Charges/Forward to Legal for review.
2005-01-0001OP	Issue Statement of Charges/Forward to Legal for review.
2005-03-0005OP	Closed no cause for action/Evidence does not support a violation.
2005-03-0002OP	Closed no cause for action/Evidence does not support a violation.
2005-04-0004OP	Closed no cause for action/Evidence does not support a violation.
2005-06-0003OP	Issue Statement of Allegations & Stipulation to Informal Disposition/Forward to Legal for review.

CASES CLOSED BELOW THRESHOLD 11/4/05

2005-10-0001OP
2005-10-0003OP
2005-10-0004OP
2005-10-0006OP
2005-10-0007OP

CASE CLOSED NO JURISDICTION

2005-10-0002OP

10.1 Statement of Allegations/Stipulation to Informal Disposition presentations (*Presentations are contingent upon agreements being reached between the parties prior to a board meeting.*)
There were no cases to present.

11. Compliance Issues
There were no compliance issues.
12. Application Review
One osteopathic physician application was reviewed and approved by the Board.

The meeting was adjourned at 1:15 pm.

Respectfully Submitted

Arlene A. Robertson
Program Manager

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